

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

No. 1:23-cv-00108-LMB-JFA

**NOTICE OF REQUEST BY MDL PLAINTIFFS
TO PARTICIPATE IN ANY EVIDENTIARY HEARING**

On behalf of themselves and the other plaintiffs in *In re Google Digital Advertising Antitrust Litigation*, No. 1:21-MD-3010 (PKC) (S.D.N.Y.), Gannett Co., Inc. (“Gannett”) and Associated Newspapers Ltd. and Mail Media, Inc. (“Daily Mail”), who propose to appear as amici in this Court, submit this notice of request to participate in any evidentiary hearing regarding Google’s failure to produce documents.

Based on the recent filings of the United States and Google LLC in this Court, we understand that Google has failed to review and produce millions of relevant documents, in breach of this Court’s and the MDL Court’s deadlines. Google’s failure affects plaintiffs in both Courts.

In addition, both the United States and Google have proposed extending the “Coordination Period,” a defined term in the orders that this Court and the MDL Court adopted for coordinating discovery between the two groups of plaintiffs. A change in the Coordination Period would affect the MDL plaintiffs.

Yesterday, Google submitted to this Court a factual declaration describing its document production failure including its responses to the MDL plaintiffs' document requests. *See* Declaration of Braden Sheff at ¶¶ 7-9, Dkt. No. 422-1 (asserting facts regarding the MDL proceedings). If the Court orders an evidentiary hearing regarding Google's failure to produce documents, we respectfully request that MDL plaintiffs be permitted to participate in such hearing and to ask questions of any Google witness who testifies at such hearing.

We note that when the Coordination Order entered by this Court was before Judge Castel, the Judge invited counsel for the United States to appear in the MDL Court in order to ensure that the Judge had all of the coordinating parties before him. *See* Order, *In re Google Dig. Advert. Antitrust Litig.*, No. 1:21-MD-3010 (PKC) (S.D.N.Y. May 9, 2023), Dkt. No. 543.

Dated: September 14, 2023

Respectfully submitted,

/s/ Charles B. Molster

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